

In the
Indiana Supreme Court



IN THE MATTER OF THE)
)
APPROVAL OF LOCAL RULES)
)
FOR POSEY COUNTY)

Case No. 65S00-1406-MS- 437

ORDER APPROVING AMENDED LOCAL RULES

The judges of the Posey Circuit and Superior Courts request the approval of amended local rules for caseload allocation in accordance with Ind. Administrative Rule 1(E) and appointment of special judges in accordance with Ind. Trial Rule 79 and Ind. Criminal Rule 13. Attached to this Order are the proposed amended local rules.

Upon examination of the proposed rule amendments requested by the Posey Circuit and Superior Courts, this Court finds that the proposed rule amendments, LR65-CR2.2-01, LR65-AR1-02, LR65-AR1-03, LR65-TR 79-05 and LR65-CR 2.2-04 comply with the requirements of Ind. Administrative Rule 1(E), Ind. Trial Rule 79, and Ind. Criminal Rule 13, and accordingly, should be approved.

IT IS, THEREFORE, ORDERED by this Court that Posey Circuit and Superior Local Rules, LR65-CR2.2-01, LR65-AR1-02, LR65-AR1-03, LR65-TR 79-05 and LR65-CR 2.2-04, set forth as an attachment to this Order, are approved effective July 1, 2014, provided further that the rules shall be posted in the county clerk's office(s) and on the county clerk's website, if any, and on the Indiana Judicial Website.

The Clerk of this Court is directed to forward a copy of this Order to the Hon. S. Brent Almon, Posey Superior Court, Courthouse, P.O. Box 604, Mount Vernon, IN 47620-0604; to the Hon. James M. Redwine, Posey Circuit Court, Courthouse, P.O. Box 745, Mount Vernon, IN 47620-0745; to the Clerk of the Posey Circuit and Superior Courts; and to the Division of State Court Administration. The Clerk is also directed to post this Order on the Court's website.

The Clerk of the Posey Circuit and Superior Courts is directed to enter this Order and attachment in the Record of Judgments and Orders for the Courts, to post this Order and attachment

for examination by the Bar and the general public, and if available, to publish this Order and attachment on the county clerk's website.

DONE at Indianapolis, Indiana, on June 25, 2014.

A handwritten signature in blue ink, appearing to read "Brent E. Dickson", written over a horizontal line.

Brent E. Dickson
Chief Justice of Indiana

LR65-CR2.2-01 Rule for the Assignment of Criminal Cases in the Posey Circuit and Superior Courts

The Clerk of the Courts of Posey County shall assign criminal cases between the Courts of Posey County as follows:

(A) Felony Cases. If a named defendant is on felony probation or has a pending felony case in the Posey Circuit or Posey Superior Court, the case shall be assigned to the court in which the defendant is on felony probation or in which the prior case is pending. Criminal Grand Jury proceedings shall be held in the Posey Circuit Court and any criminal indictment returned filed in the Posey Circuit Court. All other felony cases (MR, FA, FB, FC, FD, F1, F2, F3, F4, F5, and F6) shall be randomly assigned to the Posey Circuit and Superior Courts in accordance with LR65-AR1-03. If more than one defendant is charged in a separate cause number for acts arising out of the same incident or course of conduct, all cases so related shall be assigned to a single court determined randomly in accordance with LR65-AR1-03. The random assignment of related cases shall apply even though one or more of the defendants charged is on probation or has a pending felony case. If an indictment or information contains felony and misdemeanor charges, the case shall be considered a felony case.

(B) Misdemeanor Cases. Misdemeanor cases (CM) shall be assigned to the Posey Superior Court.

(C) OVWI and Habitual Traffic Violator Cases. All criminal offenses under I.C. 9-30-5 and I.C. 9-30-10 shall be assigned to the Posey Superior Court.

(C) Post Conviction Relief. Post Conviction Relief Petitions (PC) shall be assigned to the court in which judgment of conviction was entered.

LR65-AR1-02 Rules for Assignment of Civil Cases in the Posey Circuit and Superior Courts

Civil cases shall be assigned between Posey Circuit and Superior Courts as follows:

(A) Dissolution of Marriage (DR), Mental Health (MH), Juvenile CHINS (JC), Juvenile Delinquency (JD), Juvenile Status (JS), Juvenile Miscellaneous (JM), Juvenile Termination of Parental Rights (JT), Juvenile Paternity (JP), Reciprocal Support (RS), Adoption (AD), Estate Supervised (ES), Estate Unsupervised (EU), Guardianship (GU), Trust (TR), Petition for Change of Name (MI), and Election Recount (MI) shall be assigned to the Posey Circuit Court.

(B) Small Claim (SC), Traffic Violation and other Infractions (IF), Local Ordinance Violation (OV), and Petitions for Protective Order (PO) shall be assigned to the Posey Superior Court.

(C) Civil Plenary (CP), Civil Collection (CC), Mortgage Foreclosure (MF), Civil Tort (CT), and all other Miscellaneous Civil (MI) cases shall be randomly assigned to the courts in accordance with LR65-AR1-03.

LR65-AR1-03 Rule for Random Assignment of Felony and Civil Cases

The Clerk of the Courts of Posey County shall devise and utilize a plan for the random and equal assignment of all other felony and civil cases required by these rules to be assigned at random to the Posey Circuit and Superior Courts.

LR65-CR2.2-04 Change of Judge in Criminal Cases

(A) If a change of judge, recusal, or disqualification is granted by the judge of the Posey Circuit or Superior Court in a felony or misdemeanor case under the provisions of Indiana Criminal Rule 12; if a change of judge is granted pursuant to Indiana Post-Conviction Remedy Rule 1(4)(b); and upon change of judge in infraction and ordinance violation cases; the case shall be assigned to a special judge selected in accordance with applicable rule of District 26 for the selection of special judges in such cases. If no District 26 rule shall be in effect or upon application does not result in the selection of a special judge, the case shall be assigned to the remaining judge of the Posey Superior or Circuit Court, as the case may be. Should the judge of the Posey Superior or Circuit Court be ineligible to serve as special judge in the case thus assigned, then the clerk shall select a special judge from the following list of presiding judges in the respective courts, commencing from the top of the list and proceeding in descending order:

- Gibson Circuit Court
- Gibson Superior Court
- Vanderburgh Circuit Court
- Vanderburgh Superior Court(s) (in alphabetical order)
- Warrick Circuit Court
- Warrick Superior Court I
- Warrick Superior Court II

(B) A judge assigned to a case pursuant to these local rules remains the judge in the case unless the judge shall become ineligible or unwilling to serve, in which event a new judge shall be assigned in accordance with this rule.

(C) If a felony or misdemeanor case is dismissed from and re-filed in the Posey Circuit and/or Superior Court, or a new case is filed based on the same underlying incident, the judge assigned to the case at the time of the dismissal shall be assigned as the judge in the case upon the case being filed or re-filed, unless the judge in the dismissed case shall order otherwise, in which event the case shall be assigned to another judge in accordance with this rule.

(D) At any time, if the judge having jurisdiction feels that special circumstances merit the appointment of a special judge by the Indiana Supreme Court, the Court shall certify the case to the Supreme Court for the appointment of a special judge.

**Rule for the Selection of a Special Judge in a Civil Case in the Posey
Circuit and Superior Courts**

If it shall become necessary to select a special judge in the Posey Circuit or Superior Court pursuant to Rule 79 (H), Indiana Rules of Trial Procedure, the case shall be assigned to a special judge selected in accordance with applicable rule of District 26 for the selection of special judges in such cases. If no District 26 rule shall be in effect or upon application does not result in the selection of a special judge, the following procedure shall be used in the selection of the special judge:

(A) The judge of the Posey Circuit Court shall serve as special judge in all cases wherein the judge of the Posey Superior Court is ineligible to serve or an order of disqualification or recusal has been entered. The judge of the Posey Superior Court shall serve as special judge in all cases wherein the judge of the Posey Circuit Court is ineligible to serve or an order of disqualification or recusal has been entered.

(B) Should the judge of the Posey Superior or Circuit Court be ineligible to serve as special judge in the case thus assigned, then the clerk shall select a special judge from the presiding judges and full time judicial officers serving in the respective courts in the following list, commencing from the top of the list and proceeding in descending order:

Gibson Circuit Court
Gibson Superior Court
Vanderburgh Circuit Court
Vanderburgh Superior Court(s) (in alphabetical order)
Warrick Circuit Court
Warrick Superior Court I
Warrick Superior Court II

(C) If the judge of the Posey Circuit or Superior Court feels that special circumstances merit the appointment of a special judge by the Indiana Supreme Court, the Court shall certify the case to the Supreme Court for the appointment of a special judge.